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Written Testimony of
Sound View Community Media, Inc.
Raised Bill No. 5473
LCO No. 1731
Referred to the Committee on Energy and Technology
March 15, 2012

Dear Members of the Committee:

Raised Bill No. 5473 raises many questions, but clearly it will lead to the "break up" of most of the presently-existing regional community access television facilities. These include many successful independent, nonprofit community access corporations, such as Sound View Community Media, Nutmeg Television, Citizens TV, Skye Cable XIII, and the Community Voice Channel, along with the thirteen company-run regional access centers. The smaller independent, nonprofit community access centers, such as the five centers run by nonprofit organizations in the Hartford Area and those in the Branford-New Haven area, also will be jeopardized for the reasons stated below. The concerns caused by each of the various sections are as follows:

Section 2.

Section 2 is in conflict with another law. Presently, state law prohibits editorial control over programming content by those who are community access providers (CAPs) and manage the community access facilities. For this reason, the presently-existing legal structure provides that community access funding used to benefit volunteer producers be used solely for the provision of production equipment and facilities, and for the training and assistance to use that equipment and facilities. The Bill would change that, and in the process have CAPs step out onto a very slippery slope.

When community access funding begins to be doled out to the "volunteer" producers for their programming this becomes a payment for their efforts in developing the creative and editorial elements they put into their programming. That becomes a huge change in the legal premise of public access television. Instead of funding being used exclusively for "equal access" to training and facilities with complete disregard for programming content, once payment is made for programming it necessarily will involve judgments related to the editorial control and content of the program. Unless the CAP has a mechanistic system that makes the exact same payment to every producer who walks into the facility, there is no way the CAP can make a funding decision without implicating the programs' editorial or programming content purposes.

Section 3.

Most access centers already operate with tight budgets to fulfill their obligations of providing equal access and training to all citizens, educational institutions and local governments in their service area. This section of the Bill takes away any discretion allowing the access manager to account for changes in the needs, desires and motivation of the various the volunteer producers over time. It instead legislatively “locks in” a funding structure that existed in 2008, regardless of changing conditions.

Section 4.

In addition to having to work within a strict legal framework and the sometimes tumultuous situations when conflicting access groups compete for a greater share of the limited access budget, Section 4 would create added stress on an access manager. At any time and at any given moment, any “other entity” could file a petition with the Public Utilities Regulatory Authority (PURA) to take away that access center’s funding source. PURA, upon receiving a petition from any entity, would be required to open a docket. Setting aside how PURA staff would be able to handle a large influx of applications, consideration first must be given as to what any “other entity” could mean and who would be motivated to file such a petition.

Under present law, only “community-based nonprofit organizations” are eligible to apply to manage community access television operations and replace the incumbent video service provider. Connecticut’s community access centers still are run mostly by the incumbent video service providers on a regional basis, but present, independent third party access managers are, without exception, community based non-profit organizations with local boards of directors. “Other entity” throws the door wide open.

For example, any “other entity” could be a “for profit” company, even a pornography shop that just established a presence in a town. Is this far-fetched? Not really. It could gather and back a group of experienced television program producers who then could apply to receive funding and manage community access in the service area. Community access producers are adept at exercising First Amendment rights and some of them, with a little encouragement and financial backing, could be interested in such a proposition. Since the Bill also would authorize producers to be “paid” for their creative efforts, that may make this scenario even more possible. Another possible “other entity” could be a single entrepreneur from out-of state who, after calculating the “per subscriber” fees available, might create a business plan to deliver community access management services at a profit. Even a large media company, such as Google or AOL, would be eligible. Political parties could be applicants, and even a local government or the State, itself, would be eligible to apply. There already are local government-backed groups hostile to their regional community access provider. As an arm of the local government they feel they are better qualified to decide when and how citizens get to exercise their First Amendment rights and limit which programming subscribers in their towns get to see on certain access channels.

In all probability the first wave of “other entity” applicants will be public access producers or groups who have a personal dislike of the incumbent facility manager. It may be for reasons as simple as the producer wanting more control over scheduling and more “air time” for his programs. Or it could be a bold attempt to grab more of the financial resources from regional use for a narrower purpose. In any

event, this Bill likely will end the present pooling of subscriber fees for regional community access centers. It instead will encourage each "entity" to grab what it can from the regional access center's budget. While local input is good and should be encouraged by all regional access managers, this Bill elevates local control to the penultimate level. This will spell the end of the more highly trained staff and state-of-the art production, editing and distribution equipment at regional access centers because they are made possible only by pooling the subscriber fees at the regional level.

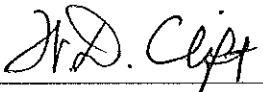
Section 4 (d) further fails to address the fundamental unfairness of subscribers in the larger cities having their access funds support a myriad of smaller access facilities in the outlying towns. Essentially, subscribers in the larger cities and towns would be forced to support facilities they cannot use for the purposes of creating programming they cannot see. But even if provisions were incorporated to ensure that subscriber funding be distributed strictly along the political subdivisions from which the fees were collected, another, bigger problem emerges. Without the continued existence of strategically-placed regional access centers, the smaller towns with low subscriber bases chronically will be underfunded. For them, access to any meaningful community television facilities via the regional center is likely to disappear altogether.

In summary, RB 5473 fails to address many issues. It overly favors any "other entity", including for-profits and out of state companies to the detriment and probable destruction of the locally-controlled and managed nonprofit third party access centers. It fails to acknowledge the positive benefits of pooling regional access facility funds, and it puts undue pressure and uncertainty on the presently-existing access centers. Even the chance of a presently operating access manager securing a loan for equipment and facilities upgrades is unlikely in the future. No conventional lender would extend a loan to a borrower whose funding, at any time, can be reduced by a diversion of its funding to another entity. In short, there is not enough money to go around for every entity that desires it to run only its "own" small community access television "niche."

We respectfully submit that R.B. 5473 should not be approved.

Very truly yours,

Sound View Community Media, Inc.

By: 
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